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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/671,468	09/27/2000	Kazutomo Hasegawa	FUSA 17.792	7120
26304	7590	04/07/2006	EXAMINER	
KATTEN MUCHIN ROSENMAN LLP			RYMAN, DANIEL J	
575 MADISON AVENUE			ART UNIT	
NEW YORK, NY 10022-2585			PAPER NUMBER	
			2616	

DATE MAILED: 04/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/671,468

Applicant(s)

HASEGAWA ET AL.

Examiner

Daniel J. Ryman

Art Unit

2616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 10 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____

13. ☐ Other: _____


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Continuation of 11. does NOT place the application in condition for allowance because:

As an initial matter, Examiner will withdraw the 35 U.S.C. 102(e) rejection of claims 13, 16-18, 21, 22, and 24-34 under Seagraves in view of the translation provided by Applicant.

Applicant asserts that AAPA does not disclose "the features of the 'transmitting unit'" since Examiner has relied upon page 22, lines 6-19 of the Specification. However, Examiner maintains that AAPA discloses the features of the transmitting unit in additional passages. For instance, AAPA discloses a transmitting unit (office side) including: timing-information determining means for determining timing information (ISDN 400-Hz signal), which specifies an interval in which effects of crosstalk from said second line are received (Fig. 37 and page 12, lines 9-12), and transmitting means for transmitting the timing-information to the receiving unit at a time carried out prior to data communication (Fig. 37 and page 12, lines 9-12) where it is implicit that the timing information is determined prior to data communication; and a receiving unit where the receiving unit includes: means for extracting the timing information (Fig. 37 and page 12, lines 6-16); and a processor for executing processing based upon this timing information (Fig. 37 and page 12, lines 6-16) where the timing information is used to derive the ISDN 400-Hz signal which in turn is used to derive the NEXT and FEXT intervals and where knowledge of the NEXT and FEXT intervals is used in the processing of the information. As such, Examiner maintains that AAPA teaches the features of the transmitting unit.

In addition, on pages 4-5 of the Response, Applicant asserts that "Examiner has failed to establish a prima facie case of obviousness in that the Examiner does not provide any suggestion or motivation in AAPA and Qureshi et al. for the proposed combination of these references." Examiner, respectfully, disagrees. As outlined above and in the previous Office Action, AAPA teaches transmitting timing information from the office side to the subscriber side in order to permit the subscriber side unit to determine the NEXT and FEXT intervals. However, AAPA does not explicitly teach how this timing information is transmitted. Qureshi teaches a method for transmitting timing information prior to data communication. Therefore, Examiner maintains that it would have been obvious to one of ordinary skill in the art at the time of the invention to use Qureshi's method for timing distribution in AAPA's system "in order to transmit the timing information of the crosstalk periods to the receiving modem so that synchronization can occur before data communication" (Final Office Action mailed 11/10/05: paragraph 14).

Further, on pages 5-6 of the Response, Applicant asserts that the "portions of Qureshi et al. do not disclose specifying a crosstalk interval." However, as outlined above and in the previous Office Action, AAPA already discloses using timing information for specifying a crosstalk interval; AAPA does not disclose how this information is distributed between modems. Thus, Qureshi is used simply to disclose a mechanism for the distribution of timing information between modems and not to teach using the timing information to specify a crosstalk interval as this is already taught by AAPA. As such, Examiner maintains that the combination of AAPA and Qureshi teaches "specifying a crosstalk interval" using the timing information.

In view of the foregoing, Examiner maintains that the claims are obvious in view of the cited prior art.